

Appln No. 10/815,181

Reply to Office action of January 11, 2005

**Amendments to the Drawings:**

Attached hereto are replacement illustrations for Figs. 1 and 2. These sheets replace the original illustrations.

Attachment:            Replacement Illustrations  
                              FIGs. 1 & 2

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**REMARKS/ARGUMENTS**

The Office Action dated January 11, 2005, has been reviewed and the comments carefully considered.

In the Office action, various issues and questions are raised concerning the description of the variety. By the amendments in the accompanying Substitute Specification, Applicant has made a bona fide effort to address all issues and questions.

Applicant has also submitted substitute drawings as requested by the Examiner.

With respect to the request for information under 37 C.F.R. §1.105, Applicant notes that a Canadian PBR application for this variety was filed on March 29, 2004, Application No. 04-4153. A copy of the Canadian PBR Office's Gazette from the website showing this is attached.

In addition, copies of catalogues for sales of this variety have been previously provided with the Information Disclosure Statement, including Flower & Green the newest catalogue 2004, Suntory Flowers Ltd., and the 2004 Suntory collection, Jackson & Perkins Wholesale, Inc. Copies are attached to this response as discussed below. This variety has been sold in the United States beginning on April 5, 2003 and in Canada beginning on April 5, 2004. It has not been available in other countries.

Finally, Applicant encloses a copy of the IDS filed August 12, 2004 with the missing documents (listed under "Other Documents") and respectfully requests that the Examining Attorney initial and acknowledge receipt of all references under the heading "Other Documents".

In view of the foregoing amendment and response, it is believed that the application is in condition for allowance and, accordingly, reconsideration and allowance is earnestly solicited.

If any questions remain regarding the allowability of the application, Applicant would appreciate if the Examiner would advise the undersigned by telephone.

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The Commissioner is hereby authorized to charge any fees under 37 CFR 1.16 and 1.17 which may be required by this paper to Deposit Account No. 03-1728. Please show our docket number with any charge or credit to our Deposit Account.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

By Cynthia A. Bonner  
Cynthia A. Bonner  
Reg. No. 44,548  
626/795-9900

CAB/tt  
Enclosures

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

*I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 12, 2004.*

  
Alex Martinez

Applicant : Yasuyuki Murakami  
Application No. : 10/815,181  
Filed : March 31, 2004  
Title : NIEREMBERGIA PLANT NAMED 'SUNNIPARIBU'  
Grp./Div. : 1661  
Examiner : N/A  
Docket No. : 52294/DBP/A400

COPY

SUPPLEMENTAL INFORMATION DISCLOSURE  
STATEMENT 37 CFR § 1.97(b)

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Post Office Box 7068  
Pasadena, CA 91109-7068  
August 12, 2004

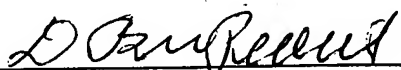
Commissioner:

In compliance with the duty of disclosure under 37 CFR §§ 1.56, 1.97 and 1.98, and in accordance with the provisions in the Manual of Patent Examining Procedure §§ 609 and 707.05(b), enclosed is FORM PTO/SB/08A/B listing the references that are known to applicant. Copies of each of the listed references are enclosed. This filing is timely because it is made during one of the periods described in 37 CFR § 1.97(b).

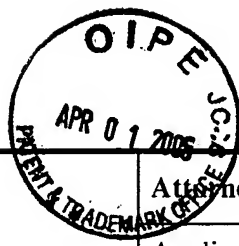
It is respectfully requested that the listed references be considered in the examination of this application and identified on the list of references cited on the patent issuing for this application. Applicant also requests that an initialed copy of FORM PTO/SB/08A/B be entered in the application file and returned to applicant with the next communication from the Office in accordance with MPEP § 609.

Respectfully submitted,

CHRISTIE, PARKER & HALE, LLP

By   
D. Bruce Prout  
Reg. No. 20,958  
626/795-9900

DBP/aam  
Enclosures: PTO/SB/08A/B, w/references



FORM PTO/SB/08A/B (10-01)  
Substitute for PTO-1449A/B

**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

(use as many sheets as necessary)

Attorney Docket Number 52294/DBP/A400

Application Number 10/815,181

Filing Date March 31, 2004

Applicant(s) Yasuyuki Murakami

Group Art Unit 1661

Examiner Name N/A

**U.S. PATENT DOCUMENTS**

EXAMINER INITIALS	Cite No. <sup>1</sup>	DOCUMENT NUMBER Number - Kind Code <sup>2</sup> (If Known)	PUBLICATION DATE MM-DD-YYYY	NAME OF PATENTEE

**FOREIGN PATENT DOCUMENTS**

EXAMINER INITIALS	Cite No. <sup>1</sup>	Foreign Patent Document Country Code <sup>3</sup> - Number <sup>4</sup> - Kind Code <sup>5</sup> (If Known)	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	T <sup>6</sup> (✓)
		JP PBR Reg. No. 9448	10-18-2001	Murakami	Database of Registered Variety and Corresponding US 13934 Previously cited

**OTHER DOCUMENTS**

EXAMINER INITIALS	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article, title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.
		Explanation of Application documents and family document thereof
		Suntory Flowers Ltd., Japan, "FLOWER & GREEN, the newest catalog 2004" Published 2003, (Explanation for IDS Documents)
		Jackson & Perkins wholesale, Inc., USA, "The 2004 Suntory Collection" Published 2003, (With Brief Explanation)
		Pineae Greenhouses, Inc., USA, "Pineae Peak Performers featuring the 2004 Suntory Collection" Published 2003, (With Brief Explanation)
		Moerheim New Plant bv., NL, "Suntory Collection 2004" Published 2003, (With Brief Explanation)
		Ramm Botanicals Pty Ltd., AU, "Colour Wave Collection 2003-4 ...beautiful flowering plants" Published 2002, (With Brief Explanation)
		Takii Seed Co., Japan, "Takii's Flowers Guide, Spring in 2004" Published 2002, (With Brief Explanation)

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EXAMINER SIGNATURE	DATE CONSIDERED
EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. <sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> See Kinds Codes of USPTO Patent Documents at www.pto.gov or MPEP 901.4. <sup>3</sup> Enter Office that issued the document, by the two-letter code (WIPO standard ST.3). <sup>4</sup> For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. <sup>5</sup> Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. <sup>6</sup> Applicant is to place a check mark here if English Language Translation is attached.	

Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE